

Memorandum

*Flex your power!
Be energy efficient!*

To: JAN SMELSER
Chief
Division of Procurement and Contracts

Date: June 30, 2008

File: P4000-372

CLARK PAULSEN
Chief
Division of Accounting

ORIGINAL SIGNED BY:

From: GERALD A. LONG
Deputy Director
Audits and Investigations

Subject: Contract Delegation Audit – Final Report

Attached is our final report of the Audits and Investigations' Contract Delegation Audit as required under the provisions of the Department of General Services (DGS) Exemption Letter No. 11.8 dated September 8, 2004. Your written response has been included as part of the report.

Please provide our office with status reports on the implementation of your audit dispositions at 60, 180, and 360 days from the report date.

If you have any questions or need additional information, please call Laurine Bohamera, Chief, Internal Audits, at (916) 323-7107, or myself at (916) 323-7122.

Attachment

c: Will Kempton, Director
Randell H. Iwasaki, Chief Deputy Director
Ann Barsotti, Deputy Director, Administration and Information Technology
Cindy McKim, Deputy Director, Finance
Joanne Ottens, Office Chief, Division of Procurement and Contracts – Policy, Protests and Warehouse
Grace Kong, Chief, Office of External Accounts Payable, Division of Accounting

P4000-372
Department of General Services Contract Delegation Audit
June 2008

Gerald A. Long
Deputy Director
Audits & Investigations
California Department of Transportation

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Summary

Audits and Investigations (A&I) has completed the audit required by the Contract Delegation from the Department of General Services (DGS) to the California Department of Transportation (Department). The DGS, under Exemption Letter No. 11.8, (effective date July 1, 2004), exempted contracts under \$75,000 from its approval. Under the delegation, the Department is required to maintain an internal control system sufficient to provide reasonable assurance of compliance with State contract laws and procedures. In addition, a biennial audit is required on the internal controls over contracts. This report covers the audit report requirement under the delegation.

The audit focused on contracts processed and executed by the Division of Procurement and Contracts (DPAC). The audit included contracts for consultant services, Right-of-Way maintenance, minor public works (Minor B), and others. The purpose of the audit was to determine whether internal controls over processing, executing, and managing contracts were adequate and in compliance with State laws, rules, and regulations.

The audit disclosed the following deficiencies:

- Discrepancies in Contract Tracking.
- Untimely Contract Approval.
- Invoices for Service Are Not In Accordance with Contract Requirements.
- Noncompliance – Delegated Contracts.
- Noncompliance – California Multiple Award Schedules (CMAS).

Background

All State contracts are required to be approved by the DGS. According to Government Code Section 14616, the Director of DGS may exempt any transaction from this legally required approval. The law sets the maximum exemption at \$75,000, and specifies requirements that must be met. An internal audit of the contract process is one of those requirements.

An exemption is granted for a specific period of time and is subject to periodic renewal. The exemption may apply to service contracts and/or consultant service contracts and may also include other categories of contracts. In addition, within these broad categories, certain types of contracts, or contracts awarded by certain methodologies, may also be excluded from the exemption.

On September 8, 2004, DGS renewed the Department's exemption by delegating authority to approve contracts under \$75,000. The new Exemption Letter No. 11.8 (supersedes No. 11.7) covers the period from July 1, 2004, through June 30, 2008. The exemption states that two audits are required during the exemption period. The exemption further states that the audits must be conducted in accordance with the DGS Office of Audit

Services (OAS) audit guide and the two audit reports must be submitted to the OAS.

DPAC provides services in the areas of procurement, publications, CAL-Card, property control, warehousing, service contracts, architectural and engineering contracts, and minor public works contracts. The Service Contracts Office within DPAC is responsible for preparing bid documents and awarding contracts, as well as assuring compliance with all legal requirements. DPAC uses the Contract Administration and Tracking System (CATS) as its contract database. The CATS database is used to generate mandatory and ad hoc Departmental Service Contract Reports. Some of the mandatory reports include the DGS Consolidated Annual Report consisting of the annual Consultant Report, Small Business and Disabled Veteran Business Enterprise Contract Activities Report, the Ethnicity, Gender and Race Reports, and the Prevailing Wage Report for the California Legislature, the Governor's Office, the Business, Transportation and Housing Agency (BTH), and the Director's Office. Official DPAC contract statistical data are extracted from executed or "authorized" (contracts executed without confidential information, i.e., Social Security Number, Contractor or Vendor Tax Identification) CATS records. DPAC processed 1,851 contracts and amendments totaling \$975,405,275 during the audit period July 1, 2006, through April 30, 2007.

In addition, DPAC tracks Service Agreements Under \$5,000 (ADM-3015). The ADM-3015 is used when seeking vendors and contractors to perform services, consultant services, and public works services (including Information Technology cabling services) in which the agreement total, including any taxes, does not exceed \$4,999.99.

Objectives, Scope, and Methodology

The purpose of the audit was to determine whether the Department provides reasonable internal controls over processing, executing, and managing contracts in accordance with the DGS exemption, as well as State laws, rules, and regulations. The audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing.

The scope of the audit focused on contracts and amendments processed by DPAC during the period July 1, 2006, through April 30, 2007.

The audit objectives were as follows:

- To determine whether the Department's contracting program is complying with the legal requirements for exemption, especially as to oversight of the universe of contracts awarded subject to exemption.
- To document the Department's systems of internal controls over the contracting process.
- To determine whether the Department's contracting system can reasonably be relied upon to provide adequate internal controls and

produce contracts according to law, State policies, and in the best interest of the State.

- To test the effectiveness of the Department's internal controls through evaluation of a sample of contracts awarded since the last audit.
- To determine whether Department management implemented appropriate corrective actions in response to previous audit findings.

Conclusion

Our audit disclosed that, in general, the Department provides reasonable internal controls over processing, executing, and managing contracts in accordance with the DGS exemption, as well as State laws, rules, and regulations, except for the following deficiencies where contract practices can be improved:

- Discrepancies in Contract Tracking.
- Untimely Contract Approval.
- Invoices for Service Are Not in Accordance with Contract Requirements.
- Noncompliance – Delegated Contracts.
- Noncompliance – California Multiple Award Schedules (CMAS).

Four of the five deficiencies noted above were reported in the previous audit report issued on September 29, 2006, (P4000-369). While these issues continue to exist, it was noted in DPAC's 180-day status report that they have communicated the issues related to contract compliance with the Districts and Divisions.

Views of Responsible Officials

We request a response to our findings from the Chief, Division of Procurement and Contracts.

ORIGINAL SIGNED BY:

GERALD A. LONG
Deputy Director
Audits and Investigations

October 31, 2007
(Last Day of Audit Field Work)

FINDINGS AND RECOMMENDATIONS

**Finding 1 –
Discrepancies in
Contract Tracking**

The Division of Procurement and Contracts (DPAC) uses a database called the Contract Administration Tracking System (CATS) to prepare mandatory and ad hoc reports for external control agencies and to provide internal management information for contracts over \$5,000. In addition, DPAC uses an automated log, called the ADM-3015 Agreement Log, to provide management information for contracts less than \$5,000. Our review found that data and contract categorization in both CATS and the ADM-3015 were inaccurate.

Specifically, our review found that 40% (28 of 70) of the contract files and/or invoices tested contained one or more inaccurate data due to input errors as follows:

- Sixteen had inaccurate approval dates.
- Five had inaccurate term (start) dates.
- Four had inaccurate term date/periods.
- Two had inaccurate contract amounts.
- One had an inaccurate vendor name.

In addition, we found that contracts were inaccurately categorized in CATS. For example, we found that 50% of the contracts selected for sampling were incorrectly classified as requiring Department of General Services (DGS) approval, when in fact, they did not require it.

Failure to maintain accurate data and contract categorization in CATS and/or the ADM-3015 Agreement Log could result in generating erroneous mandatory statistical and management reports, and ad hoc Departmental Service Contract Reports for the California Legislature, the Governor's Office, the Business, Transportation and Housing (BTH), and the Director's Office.

Good business practices dictate that all data recorded in CATS and the ADM-3015 Agreement Log should be recorded accurately.

The data inaccuracies and errors identified are attributed to a lack of training and oversight of employees inputting data.

Recommendation: We recommend that DPAC institute a periodic independent verification of data input into the CATS and the ADM-3015 Agreement Log to ensure data is accurate. We also recommend that DPAC provide training and oversight to staff inputting data.

DPAC Response DPAC concurred with the finding and recommendation. See Attachment for DPAC's complete response.

**Finding 2 –
Untimely Contract
Approval**

We found that 73% (51 of 70) of contracts reviewed were approved after the contract effective date (term start date). As a result, 21 invoices were submitted to and reimbursed by the Department for services performed prior to contract approval.

Late approval can lead to operational inefficiencies. It delays the start up of projects because the contractor cannot start work prior to official approval unless certain conditions are met. If a contractor does start work prior to contract approval and does not meet the acceptable conditions for an early start, then the Department cannot pay for the work performed. Instead, the contractor is required to submit a claim to the Victims Compensation and Government Claims Board to receive payment for work performed.

The State Contracting Manual (SCM), Vol. 1, Section 4.09(A) states the basic policy that no contractor should start work until receiving a copy of the formally approved contract. The law provides that when the Department of General Services, Office of Legal Services (DGS/OLS) approval is required, contracts for services should not begin before receipt of approval or, in the case of an exempt contract, until it is formally approved by the agency.

The DPAC Memorandum dated February 28, 2006, Contractor Notification, states that the contractor cannot start work until verbal (followed by written notification) or written communication is received, and not before the final approval or start date of the contract, whichever is later.

Per B.3 instruction #3 of the DGS Contracting Program Audit Guide, revised 2/25/03, in general, agencies are required to submit contracts 14 days prior to the contract effective dates (term start date). As a result, all contracts approved after the contract start date are deemed to be late and the agency is deemed to not have processed the contract in an efficient manner.

DPAC has incorporated a clause into departmental contracts based on DGS Administrative Order 06-05.1 that provides that the contractor cannot start work until the contract has been executed. In addition, Administrative Order 06-05.1 states that any work performed or goods received prior to the date of approval/non-approval or acceptance/non-acceptance, and not meeting one of the listed exceptions, will require submittal to the Victim Compensation and Government Claims Board.

While DPAC has responsibility for providing contract management guidance and training, responsibility for contract administration, including invoice approval, lies with the Department's individual contract managers.

Recommendation: We recommend that:

- DPAC implement procedures to ensure compliance with SCM, Section 4.09(A), Approval and Commencement of Work, and that the contract be executed (have all the required approval signatures and dates) before the start of work.
- DPAC routinely emphasizes and reinforces to Department contract managers their contract administration responsibilities of only authorizing work or approving invoices for work performed after the contract is approved, unless a valid exception exists.
- The contract analysts evaluate contract start dates when the contract request is received to ensure sufficient processing time is available and, if sufficient time is not available, adjust the contract start date in coordination with the contract requestor.

DPAC Response DPAC concurred with the finding and recommendation. See Attachment for DPAC's complete response.

**Finding 3 –
Invoices for
Services Are Not
in Accordance
with Contract
Requirements**

In our review of one invoice charged against each of 57 sampled contracts, 77% (44 of 57) of the invoices contained one or more of the following deficiencies:

- Six invoices had no dates of service to determine if work started only after contract approval.
- Six invoices had no dates of service to determine if work was performed within the contract performance period.
- Four invoices did not cover work performed within the contract performance period.
- Three invoices had no description of services to determine if the services matched the contract terms.
- Three invoices did not agree with contract payment terms.
- Eight invoices had no detailed description of payment terms to determine if they agreed with the terms for payment in the contract.

Failure to require complete contract invoices increases the risk of paying the contractor for products and/or services that were not received or were outside the contract terms.

The requirements governing contract invoices are identified in the SCM and the DPAC Memorandum, as noted below:

The SCM, Section 7.30 states that if payment is on a cost reimbursement basis, the following items should be included and all unit rates must be extended and totaled:

**Finding 3 –
(Continued)**

- Personal service costs showing individual or position rates per unit of time.
- Fringe benefit costs citing actual benefits or a percentage of personal service costs.
- Operating expenses, including rent and supplies.
- Equipment costs, specifying the equipment to be bought and the disposition of equipment at the end of the contract.
- "Travel expenses and per diem rates set at the rate specified by the Department of Personnel Administration for similar employees or verification supplied that such rates are not available to the contractor."

The SCM, Section 9.04(A) requires the contract manager to monitor the contractor's work to ensure compliance with contract terms and review and approve invoices for payment, to substantiate expenditures for work or services performed.

The SCM, Vol. 2, September 2005, Chapter 9 states that an accurate invoice provides the following:

- Agency Order Number (STD 65) or Contract Number (STD 213).
- Identifies in detail the goods acquired, quantities, unit price, extension, description, etc.
- Sales tax and/or use tax as a separate line item from goods.
- Identifies services (non-IT or IT) provided, service period, unit price (i.e. hourly, monthly), and quantity applicable to the service.
- Accurate billing address as stated on the purchase order or contract.
- Supplier invoice number.
- Supplier invoice date.
- Company name and remittance address.
- Payment terms offered.

The DPAC Memorandum dated February 28, 2006, Contractor Notification, states that the contract manager must review and approve the invoices according to the terms of the contract.

While DPAC has responsibility for providing contract management guidance and training, the responsibility for contract administration and invoice approval lies with the Department's individual contract managers. Based on our review, contract managers are not always monitoring and reviewing invoices for timeliness, accuracy, and compliance with the contract terms before approving them for payment. As a result, there is increased risk of paying contractors for products and/or services not received or outside of contract terms.

Recommendation: We recommend that DPAC ensure the Department's contract managers are

reminded of their contract administration responsibilities through written correspondence and by requiring formal on-going training.

DPAC Response

DPAC concurred with the finding and recommendation. See Attachment for DPAC's complete response.

**Finding 4 –
Noncompliance –
Delegated
Contracts**

In our review of Delegated Contracts, 85% (17 of 20) of the contracts revealed one or more of the following deficiencies:

- 60% (12 of 20) of contracts approved after the contractor commenced work did not contain sufficient documentation to validate the late approval of the contract and confirm that active time management of the contract occurred. In three cases, there was no file evidence indicating whether the un-timeliness was outside the Department's control. The SCM, Section 4.09(B) states that the contract analysts should be aware that it is necessary to minimize the number of situations when the contractors start work before formal approval of the contract.
- 50% (10 of 20) of contract files lacked sufficient documentary evidence to determine if the Department confirmed with the Office of the Secretary of State (SOS) or its website to determine if the corporation was in good standing. The SCM, Section 5.30(D)(3) states that the agencies should access the SOS' website to determine whether a corporation is in good standing in order to be qualified to do business in California. In addition, the SCM, Section 9.09(A) states that each agency is responsible for maintaining all invoices, records, and relevant documentation for each contract.
- 45% (9 of 20) of contracts were not included on the Department of Fair Employment and Housing (DFEH) list that was submitted to the DFEH, but were on the Summary Agreement (STD. 215). The SCM, 4.08(A)(d) states that within ten working days of an award, an agency must report the award of each contract over \$5,000 to the DFEH. Finally, the SCM, Section 9.09(A) states that each agency is responsible for maintaining all invoices, records, and relevant documentation for each contract.
- 35% (7 of 20) of contract files lacked sufficient documentation to determine if the Department checked for negative performance evaluations from DGS/OLS before awarding a consultant contract. The SCM, 3.02.3(A) states that before awarding a consulting services contract, of \$5,000 or more, an agency must request a copy of any negative evaluations from DGS/OLS. In addition, the SCM, Section 9.09(A) states that each agency is responsible for maintaining all invoices, records, and relevant documentation for each contract.

**Finding 4 –
(Continued)**

- 15% (3 of 20) of contract files lacked warning letters advising contractors not to commence work until they possessed an approved contract. The SCM, Section 4.09(D)(2) states that the contractor should be warned not to start work before receipt of the approved contract. In addition, the SCM, Section 9.09(A) states that each agency is responsible for maintaining all invoices, records, and relevant documentation for each contract.
- 15% (3 of 20) of contracts lacked Prompt Payment Act terms. The SCM, Section 7.20(A) states that State agencies, which acquire property or services pursuant to a contract with a business, must pay that business for each complete item of property or services within 45 days from the date set forth in the contract.

Failure to prepare contracts in accordance with the SCM requirements places the Department at risk and increases legal liability.

Lack of departmental program management oversight and staff training has contributed to the error rate.

Recommendation: We recommend that DPAC management implement appropriate oversight and staff training to ensure Department contracts are consistently prepared in accordance with applicable provisions of the SCM.

DPAC Response DPAC concurred with the finding and recommendation. See Attachment for DPAC's complete response.

**Finding 5 –
Noncompliance –
California Multiple
Award Schedules
(CMAS)**

Our review of 20 California Multiple Award Schedules (CMAS) contracts revealed the following deficiencies:

- 15% (3 of 20) of contracts that were less than \$5,000 lacked documentation to determine if the price was fair and reasonable. The DGS May 28, 2003, Management Memo 03-10, Attachments A-1, A-2, and A-3 states that for Information Technology (IT) Goods and Services, Non-IT Services and Non-IT Goods under \$5,000 only one offer may be obtained if it is established and documented that the price is fair and reasonable. In addition, the SCM, Vol. 2, September 2005, Chapter 5 – Non-Competitively Bid (NCB) Contracts, Section 5.5.3 states that departments should include documentation to support fair and reasonable pricing. Finally, the SCM, Vol. 2, September 2005, Chapter 6.F2.5 – Purchases Less than \$5,000, states that Master Agreement (MA) transactions valued less than \$5,000 may be executed without obtaining offers if fair and reasonable pricing has been established and documented. The documentation to support fair and reasonable pricing must be retained in the procurement file.

**Finding 5 –
(Continued)**

- 15% (3 of 20) of contracts with the lowest price of the three offers obtained were not selected and lacked documentation of “best value” selection criteria. The CMAS Services Guide, Section 6 states that the “best value” decision must be documented in the agency files. In addition, the SCM, Vol. 2, September 2005, Chapter 6 – Leveraged Procurement Agreements, Section 6.A4.0 requires that departments must document how the selection was made, including criteria for determining “best value.”
- 10% (2 of 20) of contract files lacked documentation to determine if the recap of offers was reviewed as required by the SCM, Vol. 2, September 2005, Chapter 6.

Maintaining incomplete contract files is in violation of DGS and Caltrans policies and procedures. In addition, DGS may withdraw its contract exemption agreement with the Department if weak controls exist over the preparation, execution, retention, and maintenance of contract records.

Finally, it is essential that complete documentation be readily available for review by the Department in the event of contractual disputes.

Lack of departmental program management oversight and lack of staff training has contributed to the error rates noted above.

Recommendation: We recommend DPAC management ensure contracts are reviewed for SCM compliance and emphasize DGS’ and the Department’s records retention and maintenance policy. We also recommend that DPAC provide contract training to its staff.

DPAC Response DPAC concurred with the finding and recommendation. See Attachment for DPAC’s complete response.

DPAC’s Additional Issue DPAC commented on Page 1, Paragraph 2 of this report, “the audit included contracts for consultant services, Right-of-Way maintenance, minor Public works (Minor B) and others.” DPAC stated that the Right of Way maintenance and Minor Bs and Public Works contracts are exempt from DGS review and approval. DPAC suggested that this paragraph be changed to more accurately identify the contract types included in the audit prior to finalizing this report.

A&I Comments We believe that DPAC misinterpreted the scope of our audit. The DGS’ audit program dictates the scope of the audit; which covers contract processes that are up and above the exemption contract process. Per the DGS’ audit program, it states that the audit guide is required to be used when an audit is required as a condition of an agency’s contracts from approval by the DGS, OLS. Specifically, when an agency is granted an

exemption from approval of contracts by the DGS and the exemption is based on the PCC Section 10351, the statutes require an audit of the contracting program every two years. This guide provides steps to be followed in conducting the audit. In general (unless otherwise noted), each audit step Step B-1 to B-12 is mutually exclusive from the other steps, and should be approached with the understanding that each step requires the identification of a separate universe and sampling methodology. The DGS audit guide includes the review of the Department's other contract processes. As such, no revision to the audit report language is necessary.

Audit Team

Laurine Bohamera, Audit Manager
Zilan Chen, Audit Supervisor
Deborah Gip, Auditor
Kathy Brooks, Auditor

ATTACHMENT

DIVISION OF PROCUREMENT AND CONTRACTS
RESPONSE TO DRAFT REPORT

Memorandum

*Flex your power!
Be energy efficient!*

To: GERALD A. LONG
Deputy Director
Audits and Investigations

Date: June 26, 2008

ORIGINAL SIGNED BY:

From: JAN SMELSER
Chief
Division of Procurement and Contracts

Subject: Response to Draft DGS Contract Delegation Audit, (P4000-372)

This is the Division of Procurement and Contracts (DPAC) response to the draft Contract Delegation Audit Report dated June 9, 2008 covering the audit period of July 1, 2006 and April 30, 2007.

Finding 1 – Discrepancies in Contract Tracking

Data and contract categorization in both CATS and the ADM-3015 were inaccurate.

Recommendation: DPAC institute a periodic independent verification of data input into the CATS and the ADM-3015 Agreement Log to ensure data is accurate. We also recommend that DPAC provide training and oversight to staff inputting data.

DPAC Response: DPAC will continue its efforts to address this ongoing issue by notifying staff of this finding and offering additional CATS refresher training to staff and managers. Management review of CATS and the ADM 3015 log is now required.

Finding 2 – Untimely Contract Approval

Contracts were approved after the contract effective date (term start date).

Recommendation: DPAC implement procedures to ensure compliance with SCM Section 4.09(A), Approval and Commencement of Work, that the contract is executed (have all the required approval signatures and dates) before the start of work.

DPAC routinely emphasizes and reinforces to Department contract managers their contract administration responsibilities of only authorizing work or approving invoices for work performed after the contract is approved, unless a valid exception exists.

DPAC Response: DPAC will emphasize and reinforce that contract managers not advise contractors to start work until the contract is approved. DPAC will also notify departmental managers of this ongoing issue and will remind contract managers not to approve invoices for any work performed prior to the contract execution date.

DPAC is seeking clarification from DGS Legal to determine whether there is a conflict between Administrative Order 06-05.1 issued June 20, 2006 and the DGS Contracting Program Audit Guide last revised February 23, 2003. We believe the rationale for this finding conflicts with information DGS Legal provided at their quarterly State Contract Advisory Network (SCAN) meetings.

Finding 3 – Invoices for Services Are Not in Accordance with Contract Requirements

Recommendation: DPAC ensure the Department's contract managers are reminded of their contract administration responsibilities through written correspondence and by requiring formal on-going training.

On May 16, 2008, DPAC sent a memo to the Chief Deputy Director, Deputy Directors, District Directors and Division Chiefs requesting their assistance to ensure contract managers comply with policies and procedures concerning contract management. However, an additional notice will be sent. Currently, web-based contract managers training is under development. The training will include processing invoices. Also, in March 2007, DPAC issued the revised Contract Manager's Handbook. Sections 4.3.3 and 4.3.4 addresses invoicing requirements.

Finding 4 – Noncompliance – Delegated Contracts

- A. Contract files lacked sufficient documentary evidence to determine if the Department confirmed with the Office of the Secretary of State or its website to determine if the corporation was in good standing.

Recommendation: DPAC management implement appropriate oversight and staff training to ensure Department contracts are consistently prepared in accordance with applicable provision of the SCM.

DPAC Response: DPAC will notify staff of the audit finding and the requirement to retain copies of the Secretary of State (SOS) Corporation status verification, as appropriate, in the contract file. The Contract Log Sheet, Contract Officers'

Checklist, and Caltrans Service Contract Manual (CSCM) will be updated to instruct staff to retain copies of the SOS status verification if the contractor is a corporation.

- B. Contracts were approved after the contractor commenced work and contract files did not include sufficient documentation to validate the late approval of contracts and confirm that active time management of the contract occurred.

DPAC Response: The Contract Log (ADM 0415) was revised in October 2007 to capture key milestones in the contract progress for audit purposes. Additionally, staff will be informed of this finding and reminded of the importance to thoroughly complete the Contract Log. The Contract Officer's Checklist will be revised to include a review of the Contract Log for completeness. Contract managers will be reminded that contractors are not to commence work until the contract is executed.

- C. Contracts were not included on the Department of Fair Employment and Housing (DFEH) list that was submitted to DFEH.

DPAC Response: To address this issue, for the past year, staff have received monthly reminders to update CATS for any executed contracts prior to running reports; however, additional intervention is warranted. DPAC will research the CATS database for any options to help identify contracts executed in the database after the DFEH report period. At this time, DPAC is unable to identify any CATS sources that provide the date and time the contracts were executed in CATS; to extract a list of late entered contracts. DPAC management will more closely monitor CATS printouts and will be instructed to address any non-compliance by staff.

- D. Contract files lacked warning letters advising contractors not to commence work until they possessed an approved contract.

DPAC Response: DPAC will review our contractor letters and contract boilerplates to ensure each clearly advises contractors not to commence work until the contract has been fully approved. DPAC will advise staff of this finding and require staff to retain copies of letters sent to the contractor in the contract file.

- E. Contracts lacked Prompt Payment Act terms.

DPAC Response: DPAC will notify staff of this finding and will review all contract boilerplates to ensure the Prompt Payment Clause is included.

Finding 5 – Noncompliance California Multiple Award Schedules (CMAS)

- A. Contracts that were less than \$5,000 lacked documentation to determine if the price was fair and reasonable.

Recommendation: DPAC management ensure contracts are reviewed for SCM compliance and emphasize DGS' and the Department's record retention and maintenance policy. We also recommend that DPAC provide contract training to its staff.

DPAC Response: DPAC will notify staff that the "fair and reasonable price" documentation must be included in the procurement file. DPAC will include the verification of "fair and reasonable price" documentation on the CMAS and MSA checklist. This checklist will be retained in our procurement file. DPAC will also provide additional staff training.

- B. Contracts with the lowest price of the three offers obtained were not selected and lacked documentation of "best value" selection criteria.

DPAC Response: DPAC will advise staff that "best value" selection criteria and supporting documentation must be retained in our procurement file. DPAC will include the verification of "best value" documentation on the CMAS and MSA checklist. This checklist will also be retained in our procurement file. DPAC will also provide staff training to remedy and ensure that the documentation on how the selection was made, including criteria for determining "best value", is retained in the procurement file.

- C. Contract files lacked documentation to determine if the recap of offers was reviewed as required by the SCM, Vol.2, September 2005, Chapter 6.

DPAC Response: DPAC will advise staff that documents supporting recap offers must be retained in the procurement file. DPAC will reinforce use of the "Bid Quote" worksheet. DPAC will include verification that supporting documentation for recap offers will be added to the procurement checklist. The procurement checklist will be retained in our procurement file. Staff training will be provided on the use of "Bid Quote" worksheet.

GERALD LONG

June 26, 2008

Page 5

DPAC wants to call your attention to Page 1, Paragraph 2 of the report. It states, "The audit included contracts for consultant services, Right-of-Way maintenance, minor public works (Minor B) and others." Please note that Right of Way maintenance and Minor Bs and Public Works contracts are exempt from DGS review and approval. We suggest this paragraph be changed to more accurately identify the contract types included in the audit prior to finalizing this report.

If you have any questions or concerns, please contact Joanne Ottens at (916) 227-6837.

c: MRettker
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